

2013 DRAFTING REQUEST

Bill

Received:	9/20/2013	Received By:	agary
Wanted:	As time permits	Same as LRB:	
For:	Dale Kooyenga (608) 266-9180	By/Representing:	Rachel Geary
May Contact:		Drafter:	agary
Subject:	Transportation - highways Transportation - other	Addl. Drafters:	
		Extra Copies:	EVM

Submit via email: **YES**
 Requester's email: **Rep.Kooyenga@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Local regulation of borrow sites and material disposal sites

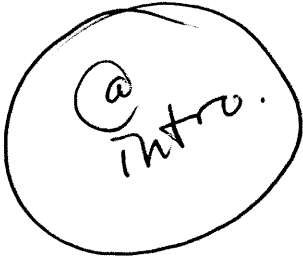
Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 10/3/2013			_____			
/P1	agary 10/10/2013	kfollett 10/7/2013	rschluet 10/7/2013	_____	sbasford 10/7/2013		State
/1		csicilia 10/10/2013	jmurphy 10/10/2013	_____	srose 10/10/2013	lparisi 10/23/2013	State

FE Sent For:



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10/10/13
Jm 10/10
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/?	agary	1P15f 10/7	 10/7/13	_____	_____		

FE Sent For:

<END>

Gary, Aaron

From: Geary, Rachel
Sent: Friday, September 20, 2013 1:39 PM
To: Gary, Aaron
Subject: Drafting Request

Hi Mr. Gary

I have a drafting request from Representative Kooyenga – please see the below information:

Please draft a bill that does the following:

85.193(2) – Clarify the department of transportation determines if the criteria a-g have been met.
Statute does not apply to any subdivision that has over 500 residents living within a one mile square radius from the dumping points on the property.

Cities retain the right to use ordinances to regulate traffic volume, noise and hours of operation.

This drafting request deals an issue in our district. I do not know how familiar you are with the quarry that is being proposed for a neighborhood in Brookfield.

If you have further questions or would like a better understanding of the quarry issue in Brookfield, I am more than happy to have myself or the Representative explain the situation and pass along information that would be helpful.

Thank you

Rachel Geary
Legislative Assisant
State Representative Dale Kooyenga
14th Assembly District
608.266.9181
Rachel.Geary@legis.wi.gov



State of Wisconsin
2013 - 2014 LEGISLATURE

in
10/3



LRB-3210/P1

ARG...

kjf

Wanted
by 10/7

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Gen

- 1 AN ACT ...; relating to: local ordinances regulating borrow sites and material
- 2 disposal sites for certain transportation projects.

Analysis by the Legislative Reference Bureau

Under current law, a zoning ordinance enacted by a county, city, village, or town (political subdivision) may not apply to a borrow site or material disposal site operated in connection with a transportation project if certain criteria are satisfied. A "transportation project" is a construction or maintenance project directed and supervised by the Department of Transportation (DOT) that affects the waters of this state and is therefore subject to an interdepartmental agreement between DOT and the Department of Natural Resources. A "borrow site" is a site off of transportation project property from which soil, gravel, or similar material used in the construction of earthworks (borrow) is excavated for use in the transportation project. A "material disposal site" is a site off of the transportation project property used to dispose of surplus materials from the project and that is under control of the project contractor or subcontractor, but does not include a general-use landfill. Among the criteria that must be satisfied for a zoning ordinance not to apply to a borrow site or material disposal site are that the site is used solely for the transportation project and that the transportation project contractor is responsible for the operation of the site. When a state law precludes applicability of a local ordinance, this is often referred to as preemption.

This bill creates exceptions to the preemption under current law of local zoning ordinances relating to borrow sites and material disposal sites as discussed above. Under the bill, this preemption does not occur with respect to any residential area

X that has more than 500 residents living within a one-mile radius of a material disposal site. The bill also specifies that a political subdivision is not preempted from exercising any authority to regulate, by ordinance, the hours of operation of, or noise or traffic volume relating to, any borrow site or material disposal site. Finally, the bill specifies that DOT makes the determination as to whether criteria are satisfied that give rise to the preemption of zoning ordinances as applied to borrow sites and material disposal sites.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 85.193 (2) (intro.) of the statutes is amended to read:

2 85.193 (2) EXEMPTION FROM LOCAL ZONING. (intro.) ~~No~~ Except as provided in sub.

3 (3), no zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35, or 62.23 may

4 apply to a borrow site or material disposal site if, as determined by the department,

5 all of the following apply:

6 History: 2011 a. 32.

7 **SECTION 2.** 85.193 (3) of the statutes is created to read:

8 85.193 (3) (a) Subsection (2) does not apply with respect to any residential area

9 that has more than 500 residents living within a one-mile radius of any point of disposal on a material disposal site.

10 (b) Subsection (2) does not limit any authority of a political subdivision to regulate, by ordinance, the hours of operation of, or noise or traffic volume relating to, any borrow site or material disposal site.

13 (END)

D-Not

ARG:..



Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3210/P1dn
ARG:kjfrs

October 7, 2013

ATTN: Rachel Geary

Please review the attached draft carefully to ensure that it is consistent with your intent.

This draft treats only s. 85.193. It does not treat s. 84.06 (12), which also relates to borrow sites. In the 2011 Budget Act (Act 32), s. 85.193 was created. At that time, s. 84.06 (12) already had a sunset date stating that it did not apply to any borrow site opened for use after July 1, 2011. See s. 84.06 (12) (c). From my understanding of the circumstances relating to this request, s. 84.06 (12) would not be applicable and I have therefore not treated the provision. Please advise if you would like me to prepare treatments in s. 84.06 (12) that are similar to those in s. 85.193.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Geary, Rachel
Sent: Thursday, October 10, 2013 9:31 AM
To: Gary, Aaron
Subject: LRB 3210/P1
Attachments: 13-3210_P1.pdf

Hi Mr. Gary

Could you please make this draft a “/1”?

Thank you

Rachel Geary
Legislative Assisant
State Representative Dale Kooyenga
14th Assembly District
608.266.9181
Rachel.Geary@legis.wi.gov



State of Wisconsin
2013 - 2014 LEGISLATURE

TODAY



LRB-3210/PI /

ARG:kjf:rs

in
10/10

stage
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SN

Coen Cat

No changes

- 1 AN ACT *to amend* 85.193 (2) (intro.); and *to create* 85.193 (3) of the statutes;
- 2 relating to: local ordinances regulating borrow sites and material disposal
- 3 sites for certain transportation projects.

Analysis by the Legislative Reference Bureau

Under current law, a zoning ordinance enacted by a county, city, village, or town (political subdivision) may not apply to a borrow site or material disposal site operated in connection with a transportation project if certain criteria are satisfied. A "transportation project" is a construction or maintenance project directed and supervised by the Department of Transportation (DOT) that affects the waters of this state and is therefore subject to an interdepartmental agreement between DOT and the Department of Natural Resources. A "borrow site" is a site off of transportation project property from which soil, gravel, or similar material used in the construction of earthworks (borrow) is excavated for use in the transportation project. A "material disposal site" is a site off of the transportation project property used to dispose of surplus materials from the project and that is under control of the project contractor or subcontractor, but does not include a general-use landfill. Among the criteria that must be satisfied for a zoning ordinance not to apply to a borrow site or material disposal site are that the site is used solely for the transportation project and that the transportation project contractor is responsible for the operation of the site. When a state law precludes applicability of a local ordinance, this is often referred to as preemption.

This bill creates exceptions to the preemption under current law of local zoning ordinances relating to borrow sites and material disposal sites as discussed above.

Under the bill, this preemption does not occur with respect to any residential area that has more than 500 residents living within a one-mile radius of a material disposal site. The bill also specifies that a political subdivision is not preempted from exercising any authority to regulate, by ordinance, the hours of operation of, or noise or traffic volume relating to, any borrow site or material disposal site. Finally, the bill specifies that DOT makes the determination as to whether criteria are satisfied that give rise to the preemption of zoning ordinances as applied to borrow sites and material disposal sites.

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4 apply to a borrow site or material disposal site if, as determined by the department,
5 all of the following apply:

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7 **SECTION 2.** 85.193 (3) of the statutes is created to read:

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9 that has more than 500 residents living within a one-mile radius of any point of
10 disposal on a material disposal site.

11 (b) Subsection (2) does not limit any authority of a political subdivision to
12 regulate, by ordinance, the hours of operation of, or noise or traffic volume relating
13 to, any borrow site or material disposal site.

(END)

Parisi, Lori

From: Rep.Kooyenga
Sent: Wednesday, October 23, 2013 2:31 PM
To: LRB.Legal
Subject: Draft Review: LRB -3210/1 Topic: Local regulation of borrow sites and material disposal sites

Please Jacket LRB -3210/1 for the ASSEMBLY.